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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,033	07/08/2003	Travis J. Parry	200207045-1	3944
22879	7590	01/12/2005		EXAMINER
				BEATTY, ROBERT B
			ART UNIT	PAPER NUMBER
				2852

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/615,033	PARRY ET AL.
	Examiner Robert Beatty	Art Unit 2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 and 22-34 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

1. Claims 17-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 11/2/2004.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8,14-16,22,26-28,32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirst et al.

Hirst et al. teach an image forming device 10 having a replaceable unit 18 such as a toner cartridge and a memory 19 attached to the replaceable unit. The memory has software or firmware patches (code). Upon attaching the replaceable unit to the image forming device, a communication interface will occur between the

memory and the microcomputer controller 30, wherein the patches or upgrades will be written to a memory 33 associated with the microcomputer.

3. Claims 1·8,14·16,22,26·28,32·34 are rejected under 35 U.S.C. 102(e) as being anticipated by Tabb et al.

Tabb et al. teach an image forming device 100 having a replaceable unit 1 such as a toner cartridge and a memory 30 attached to the replaceable unit. The memory has software or firmware patches (code). Upon attaching the replaceable unit to the image forming device, a communication interface will occur between the memory and the microcomputer controller 41, wherein the patches or upgrades will be written to a memory 42 associated with the microcomputer.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9·10,12·13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirst et al. or Tabb et al. in view of Johnson et al.

Hirst et al. or Tabb et al. taught supra discloses most of what is claimed except determining if existing firmware components exist in the printer and

comparing if the existing firmware version to the firmware version in the memory of the replaceable unit and uploading if necessary.

Johnson et al. teach an image forming apparatus 105 which has firmware 360 which can be upgraded or expanded (col.7, lines 24-32). The printing device can be queried for its version of the firmware and compared to a latest available version and if the printers version is not as new, a replacement operation can ensue (col.14, lines 57-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine if the existing firmware is a latest version and via comparison to upgrade as necessary because the latest version of the operating code can always be kept up-to-date which would improve operation of the image forming apparatus.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirst et al. or Tabb et al. in view of Johnson et al. as applied to claims 9-10,12-13 above, and further in view of Kojima et al.

Hirst et al. or Tabb et al. in view of Johnson et al. teach most of what is claimed except requiring a password/authentication for allowing the upgrade of firmware to take place. Kojima et al. teach an image forming apparatus 2 having an associated controller 1 and means to update control information in the controller via a detachable IC card 200. A password ID must be matched before the update occurs (col.6, lines 9-40). It would have been obvious to one of ordinary skill in the art at

the time the invention was made to require a password ID to allow the update of certain control information because only the proper qualified person can be allowed to perform the update which will minimize updating errors.

6. Claims 23-25,29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirst et al. or Tabb et al. in view of Richards (JP# 2002-62769).

Hirst et al. or Tabb et al. taught supra discloses most of what is claimed except the memory associated with the replaceable unit transmitting data wirelessly. Richards (JP) teach a replaceable module 14,16 for an printing apparatus 10 having a memory 34 attached thereto. Information can be read from or written to the memory via a wireless interface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use wireless communication to transmit or receive data from the memory because wearing out/misalignment of electrical contacts used to transmit data from the memory to the printer would not be needed thus maintenance would be lessened.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

EP# 1,376,344; UK# 2,371,523; and Gunning teach various printers with means to access/transmit firmware or software upgrades.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Beatty whose telephone number is (571) 272-2130. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Robert Beatty
Primary Examiner
Art Unit 2852

January 8, 2005